THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27035 of 1996

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring para 2.1 of the Corporate Circular No.GHP/491/05/96 dated 24.5.1996 of the first respondent as arbitrary, illegal and unconstitutional and consequently direct the respondents to pay the arrears forthwith arising out of revised basic pay, dearness allowance and other benefits to the petitioner.

The facts are not much in dispute. It appears, petitioner was in the service of first respondent company as an Executive from 1.1.1993 to 4.10.1994. While so, he resigned from the job on 4.10.1994. After his resignation, first respondent issued a Circular dated 24.5.1996 revising the pay scales and other allowances to the Executives of the Company with retrospective effect. The grievance of the petitioner is that though he resigned from the post on 4.10.1994, he is entitled for revised pay and allowances as per the Circular dated 24.5.1996, hence, he made a representation dated 16.7.1996 to the first respondent in this regard, but the first respondent informed that since the petitioner was not on the rolls of the company as on 24.5.1996, he is not entitled to the revised pay scales. Hence the writ petition.

It is the contention of the petitioner that at the time of his relieving, his conduct was graded as 'good' and there was no disciplinary proceedings pending against him nor he was removed from service. Under those circumstances, denial of

revised pay scales and other benefits from 1.1.1993 to 4.10.1994 is arbitrary and illegal.

A detailed counter affidavit has been filed by the first respondent denying the allegations made by the petitioner and asserting that since the petitioner has left the services of the company on 4.10.1994, he is not eligible for the benefit of wage revision. The benefit of wage revision and payment of arrears will not be allowed to the executives who left the services of the company on account of resignation, dismissal, discharge or termination as on 1.1.1993 or thereafter as it is like a voluntary act. Further, revising the scales retrospectively and extending the consequential benefits to the employees is the prerogative of the management and it was given only to those who are interested in the development of the company. The decision in this regard was taken by the Board of Directors while revising the pay scales and other allowances applicable to others.

Para 2.1 of the impugned circular dated 24.5.1996 reads as under:

> "The revision of Pay Scales of Executives shall apply
>
> a) to all Executives in the existing Pay Scale of Rs.2200-100-3600 ('L' Grade) to Rs.7500-200-8500 ('B' Grade) both the grades inclusive and who were on the regular rolls of the company as on 31.12.1992 and continue to be so as on 24.5.1996.
>
> b) to all Executives who were promoted to the existing Pay Scale of Rs.2200-100-3600 ('L' Grade) on or after 1.1.1993 and continue to be on the regular rolls of the company as on 24.5.1996. However, the benefits in such cases shall be limited to their duration of service in the Executives category.
>
> c) To all Executives who joined the company in the existing

> pay scale of Rs.2200-100-3600 ('L' Grade) on or after 1.1.1993 and continue to be on the regular rolls of the company as on 24.5.1996. They shall however be deemed to have been appointed in the revised pay scale from the date of joining".

From the above, it is clear that the revision of pay scales is not applicable to those executives who are not in service due to resignation, termination or dismissal.

The learned counsel for petitioner strenuously contended that the circular dated 24.5.1996 was issued revising the pay scales, which was given retrospective effect from 1.1.1993. Once that is so, the persons who have resigned on their own cannot be denied of arrears of salary, pay and allowances in view of revision. May be, the persons whose services were terminated or removed in view of disciplinary proceedings, they are not entitled, but insofar as petitioner is concerned, he has resigned from the post after obtaining permission from the first respondent and got himself relieved and joined the second respondent organization.

Per contra, the learned counsel for respondents strenuously contended that the applicability of pay scales to a particular category is within the prerogative of the respondent and the respondent-management in its wisdom has taken a decision, therefore, the same cannot be examined by this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned circular and other material made available on record.

It is a fact that the petitioner was in the service of first respondent between 1.1.1993 and 4.10.1994. He resigned the job and joined the second respondent organization after obtaining permission from the first respondent. Simply because, a person has resigned to have better opportunities of employment, he cannot be denied of pay and allowances for which he is entitled, particularly for the period he rendered active service. The resignation of the petitioner would not disentitle him from claiming salary, therefore, clause 2.1 insofar as petitioner is concerned, is liable to be set aside and accordingly set aside declaring that the petitioner is entitled for difference of wages, pay and allowances from 1.1.1993 to 4.10.1994 as per the revised pay scales vide circular dated 24.5.1996.

The writ petition is accordingly allowed. No order as to costs.

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C.V.RAMULU, J

Date: 17.1.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27035 of 1996

17.1.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27035 of 1996

Date: 17th January, 2006

Between:

M.K.Sinha

.. Petitioner

And

M/s Godavari Fertilisers & Chemicals Ltd.,

rep. by its Managing Director & others.

.. Respondents